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ABSTRACT

The Architectural Barriers Act of 1968 requires federally funded buildings and facilities to be accessible to and usable by physically handicapped persons. The Architectural and Transportation Barriers Compliance Board was established by the Rehabilitation Act of 1973 to ensure compliance with standards prescribed under the Architectural Barriers Act. The texts of both laws and their later amendments are contained in this booklet. (MLF)

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Laws Concerning The Federal Architectural And Transportation Barriers Compliance Board

EA 012 219

THE ARCHITECTURAL BARRIERS ACT
of August 12, 1968
As Amended through 1978

REHABILITATION ACT OF 1973
As Amended through 1978
Sections 502, 506 and 507

OTHER RELATED PROVISIONS

THE ARCHITECTURAL BARRIERS ACT
(Public Law 90-480) of August 12, 1968
Amended Through 1978
42 U.S.C. §§4151 et seq.

AN ACT To insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, as used in this Act, the term "building" means any building or facility (other than (A) a privately owned residential structure not leased by the Government for subsidized housing programs and (B) any building or facility on a military installation designed and constructed primarily for use by able bodied military personnel) the intended use for which either will require that such building or facility be accessible to the public, or may result in employment or residence therein of physically handicapped persons, which building or facility is--

(1) to be constructed or altered by or on behalf of the United States;

(2) to be leased in whole or in part by the United States after August 12, 1968;*

(3) to be financed in whole or in part by a grant or a loan made by the United States after August 12, 1968, if such building or facility is subject to standards for design, construction, or alteration issued under authority of the law authorizing such grant or loan; or

(4) to be constructed under authority of the National Capital Transportation Act of 1960, the National Capital Transportation Act of 1965, or title III of the Washington Metropolitan Area Transit Regulation Compact.

SEC. 2. The Administrator of General Services, in consultation with the Secretary of Health, Education, and Welfare, shall prescribe standards for the design, construction, and alteration of buildings (other than residential structures subject to this Act and buildings, structures, and facilities of the Department of Defense and of the United States Postal Service subject to this Act) to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings.**

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* A 1976 amendment, Public Law 94-541, deleted the following words from the end of section 2: "after construction or alteration in accordance with plans and specifications of the United States." Section 202 of Public Law 94-541 states that the amendment applies to "every lease entered into on or after January 1, 1977, including any renewal of a lease entered into before such a date which renewal is on or after such date." Regulations at 43 Fed. Reg. 16478 (April 19, 1978) amending 41 C.F.R. §101-19.6.

** Regulations at 41 C.F.R. §101-19.6, effective September 12, 1969.

SEC. 3. The Secretary of Housing and Urban Development, in consultation with the Secretary of Health, Education, and Welfare, shall prescribe standards for the design, construction, and alteration of buildings which are residential structures subject to this Act to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings.*

SEC. 4. The Secretary of Defense, in consultation with the Secretary of Health, Education, and Welfare, shall prescribe standards for the design, construction, and alteration of buildings, structures, and facilities of the Department of Defense subject to this Act to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings.**

SEC. 4a. The United States Postal Service, in consultation with the Secretary of Health, Education, and Welfare, shall prescribe such standards for the design, construction, and alteration of its buildings to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings.***

SEC. 5. Every building designed, constructed, or altered after the effective date of a standard issued under this Act which is applicable to such building, shall be designed, constructed, or altered in accordance with such standard.

SEC. 6. The Administrator of General Services, with respect to standards issued under section 2 of this Act, and the Secretary of Housing and Urban Development, with respect to standards issued under section 3 of this Act, and the Secretary of Defense with respect to standards issued under section 4 of this Act, and the United States Postal Service with respect to standards issued under section 4a of this Act--

(1) is authorized to modify or waive any such standard, on a case-by-case basis, upon application made by the head of the department, agency, or instrumentality of the United States concerned, and upon a determination by the Administrator or Secretary, as the case may be, that such modification or waiver is clearly necessary, and

(2) shall establish a system of continuing surveys and investigations to insure compliance with such standards.

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* Regulations at 24 C.F.R. Part 40.

** Standards at DoD 4270.1-M, "Construction Criteria," June 1, 1978, para. 5-6.

*** Standards at Postal Contracting Manual, Publication 41, §18-518.4; 39 C.F.R. §601.100.

SEC. 7 (a) The Administrator of General Services shall report to Congress during the first week of January of each year on his activities and those of other departments, agencies, and instrumentalities of the Federal Government under this Act during the preceding fiscal year including, but not limited to, standards issued, revised, amended, or repealed under this Act and all case-by-case modifications, and waivers of such standards during such year.

(b) The Architectural and Transportation Barriers Compliance Board established by section 502 of the Rehabilitation Act of 1973 (Public Law 93-112) shall report to the Public Works and Transportation Committee of the House of Representatives and the Public Works Committee of the Senate during the first week of January of each year on its activities and actions to insure compliance with the standards prescribed under this Act.

Rehabilitation Act of 1973 as amended through December 31, 1978
Sections 502, 506, and 507
(29 U.S.C. §§792, 796, and 797)

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Establishment; membership; chairperson*

Sec. 502 (a) (1) There is established within the Federal Coverment the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the "Board") which shall be composed as follows:

(A) Eleven members shall be appointed by the President from among members of the general public of whom five shall be handicapped individuals.

(B) The remaining members shall be the heads of each of the following departments or agencies (or their designees whose positions are executive level IV or higher):

(i) Department of Health, Education, and Welfare.
(ii) Department of Transportation.
(iii) Department of Housing and Urban Development.
(iv) Department of Labor.
(v) Department of the Interior.
(vi) Department of Defense.
(vii) Department of Justice.
(viii) General Services Administration.
(ix) Veterans' Administration.
(x) United States Postal Service.

* Headings are unofficial aids.

The President shall appoint the first Chairman of such Board who shall serve for a term of not more than two years; thereafter, the Chairman shall be elected by a vote of a majority of the Board for a term of one year.

(2) The term of office of each appointed member of the Board shall be three years; except that (i) the members first taking office shall serve, as designated by the President at the time of appointment, four for a term of one year, four for a term of two years, and three for a term of three years, and (ii) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

(3) If any appointed member of the Board becomes a Federal employee, such member may continue as a member of the Board for not longer than the sixty-day period beginning on the date he becomes such an employee.

(4) No individual appointed under paragraph (1)(A) of this subsection who has served as a member of the Board may be reappointed to the Board more than once unless such individual has not served on the Board for a period of two years prior to the effective date of such individual's appointment.

(5)(A) Members of the Board who are not regular full-time employees of the United States shall, while serving on the business of the Board, be entitled to receive compensation at rates fixed by the President, but not to exceed the daily rate prescribed for GS-18 under section 5332 of title 5, United States Code, including traveltime, for each day they are engaged in the performance of their duties as members of the Board; and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

(B) Members of the Board who are employed by the Federal Government shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

Functions

(b) It shall be the function of the Board to: (1) insure compliance with the standards prescribed pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968 (including the application of that Act to the United States Postal Service) including but not limited to enforcing all standards under that Act, and insuring that all waivers and modifications of standards are based upon findings of fact and are not inconsistent with the provisions of such Act and this section;

(2) investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting handicapped individuals, particularly with respect to telecommunication devices, public buildings and monuments, parks and parkland, public transportation (including air, water, and surface transportation whether interstate, foreign, intrastate, or local), and residential and institutional housing;

(3) determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies to eliminate the barriers described in clause (2) of this subsection;

(4) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of the General Services Administration, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968;

(5) make to the President and Congress reports which shall describe in detail the results of its investigations under clauses (2) and (3) of this subsection;

(6) make to the President and to the Congress such recommendations for legislation and administration as it deems necessary or desirable to eliminate the barriers described in clause (2) of this subsection;

(7) establish minimum guidelines and requirements for the standards issued pursuant to the Act of August 12, 1968, as amended, commonly known as the Architectural Barriers Act of 1968; and

(8) insure that public conveyances, including rolling stock, are readily accessible to, and usable by, physically handicapped persons.

Additional Functions; transportation barriers and housing needs; transportation and housing plans and proposals

(c) The Board shall also

(1)(A) determine how and to what extent transportation barriers impede the mobility of handicapped individuals and aged handicapped individuals and consider ways in which travel expenses in connection with transportation to and from work for handicapped individuals can be met or subsidized when such individuals are unable to use mass transit systems or need special equipment in private transportation, and

(B) consider the housing needs of handicapped individuals;

(2) determine what measures are being taken, especially by public and other nonprofit agencies and groups having an interest in and a capacity to deal with such problems,

(A) to eliminate barriers from public transportation systems (including vehicles used in such systems), and to prevent their incorporation in new or expanded transportation systems and

(B) to make housing available and accessible to handicapped individuals or to meet sheltered housing needs; and

(3) prepare plans and proposals for such further actions as may be necessary to the goals of adequate transportation and housing for handicapped individuals, including proposals for bringing together in a cooperative effort, agencies, organizations, and groups already working toward such goals or whose cooperation is essential to effective and comprehensive action.

Investigations; hearings; orders; administrative procedure applicable; final orders

(d)(1) In carrying out its functions under this chapter, the Board shall, directly or through grants to public or private nonprofit organizations or contracts with private nonprofit or forprofit organizations, carry out its functions under subsection (b) and (c) of this section, and shall conduct investigations, hold public hearings, and issue such orders as it deems necessary to insure compliance with the provision of the Acts cited in subsection (b) of this section. Except as provided in paragraph (3) of subsection (e) the provisions of subchapter II of chapter 5, and chapter 7 of title 5 shall apply to procedures under this section, and an order of compliance issued by the Board shall be a final order for purposes of judicial review. Any such order affecting any Federal department, agency, or instrumentality of the United States shall be final and binding on such department, agency, or instrumentality. An order of compliance may include the withholding or suspension of Federal funds with respect to any building or public conveyance or rolling stock found not to be in compliance with standards enforced under this section. Pursuant to chapter 7 of title 5, United States Code, any complainant or participant in a proceeding under this subsection may obtain review of a final order issued in such proceeding.

(2) The executive director is authorized, at the direction of the Board--

(A) to bring a civil action in any appropriate United States district court to enforce, in whole or in part, any final order of the Board under this subsection; and

(B) to intervene, appear, and participate, or to appear as amicus curiae, in any court of the United States or in any court of a State in civil actions which relate to this section or to the Architectural Barriers Act of 1968.

Except as provided in Section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the executive director may appear for and represent the Board in any civil litigation brought under this section.

(3) The Board, in consultation and coordination with other concerned Federal departments and agencies within the Department of Health, Education, and Welfare, shall develop standards and provide appropriate technical assistance to any public or private activity, person, or entity affected by regulations prescribed pursuant to this title with respect to overcoming architectural, transportation, and communication barriers. Any funds appropriated to any such department or agency for the purpose of providing such assistance may be transferred to the Board for the purpose of carrying out this paragraph. The Board may arrange to carry out its responsibilities under this paragraph through such other departments and agencies for such periods as the Board determines is appropriate. In carrying out its technical assistance responsibilities under this paragraph, the Board shall establish a procedure to insure separation of its compliance and technical assistance responsibilities under this section.

Appointment of executive director, hearing examiners, and other personnel; provisions applicable

(e)(1) There shall be appointed by the Board an executive director and such other professional and clerical personnel as are necessary to carry out its functions under this chapter. The Board is authorized to appoint as many hearing examiners as are necessary for proceedings required to be conducted under this section. The provisions applicable to hearing examiners appointed under section 3105 of title 5 shall apply to hearing examiners appointed under this subsection.

(2) The Executive Director shall exercise general supervision over all personnel employed by the Board (other than hearing examiners and their assistants). The Executive Director shall have final authority on behalf of the Board, with respect to the investigation of alleged noncompliance in the issuance of formal complaints before the Board and shall have such other duties as the Board may prescribe.

(3) For the purpose of this section, an order of compliance issued by a hearing examiner shall be deemed to be an order of the Board and shall be the final order for the purpose of judicial review.

Technical, administrative, or other assistance; appointment, compensation, and travel expenses of advisory and technical experts and consultants

(f) The departments or agencies specified in subsection (a) of this section shall make available to the Board such technical, administrative, or other assistance as it may require to carry out its functions under this section, and the Board may appoint such other advisers, technical experts, and consultants as it deems necessary to assist it in carrying out its functions under this section. Special advisory and technical experts and consultants appointed pursuant to this subsection shall, while performing their functions under this section, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily

pay rate, for a person employed as a GS-18 under section 5332 of Title 5, including traveltime, and while serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such Title 5 for persons in the Government service employed intermittently.

Reports to Congress; final reports on transportation barriers and housing needs

(g) The Board shall, at the end of each fiscal year, report its activities during the preceding fiscal year to the Congress. Such report shall include an assessment of the extent of compliance with the Acts cited in subsection (b) of this section, along with a description and analysis of investigations made and actions taken by the Board, and the reports and recommendations described in clauses (5) and (6) of subsection (b) of this section. The Board shall prepare two final reports of its activities under subsection (c) of this section. One such report shall be on its activities in the field of transportation barriers to handicapped individuals, and the other such report shall be on its activities in the field of the housing needs of handicapped individuals. The Board shall, not later than September 30, 1975, submit each such report, together with its recommendations, to the President and the Congress. The Board shall also prepare for such submission an interim report of its activities in each such field within 18 months after September 26, 1973.

Cost assessments; grants and contracts

(h)(1) Within one year following [November 6, 1978], the Board shall submit to the President and the Congress a report containing an assessment of the amounts required to be expended by States and by political subdivisions thereof to provide handicapped individuals with full access to all programs and activities receiving Federal assistance.

(2) The Board may make grants to, or enter into contracts with, public or private organizations to carry out its duties under subsections (b) and (c). The Board may also make grants to any designated State unit for the purpose of conducting studies to provide the cost assessments required by paragraph (1). Before including in such report the findings of any study conducted for the Board under a grant or contract to provide the Board with such cost assessments, the Board shall take all necessary steps to validate the accuracy of any such findings.

Authorization of appropriations

(i) There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Board under this section such sums as may be necessary for each fiscal year ending before October 1, 1982, but in no event shall the amount appropriated for any one fiscal year exceed $3,000,000.

Secretarial responsibilities

Sec. 506. (1) The Secretary may provide directly or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof, technical assistance--

(A) to persons operating rehabilitation facilities; and

(B) with the concurrence of the Board established by section 502, to any public or nonprofit agency, institution, or organization;

for the purpose of assisting such persons or entities in removing architectural, transportation, or communication barriers. Any concurrence of the Board under this paragraph shall reflect its consideration of the cost studies carried out by States under section 502(c)(1) [sic].*

(2) Any such experts or consultants, while serving pursuant to such contracts, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily equivalent of the rate of basic pay payable for grade GS-18 of the General Schedule, under section 5332 of title 5, United States Code, including traveltime, and while so serving away from their homes or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(3) The Secretary, with the concurrence of the Board and the President, may provide, directly or by contract, financial assistance to any public or nonprofit agency, institution, or organization for the purpose of removing architectural, transportation, and communication barriers. No assistance may be provided under this paragraph until a study demonstrating the need for such assistance has been conducted and submitted under section 502(h)(2) [sic]** of this title.

(4) In order to carry out this section, there are authorized to be appropriated such sums as may be necessary.

Interagency Coordinating Council

Sec. 507. There shall be established an Interagency Coordinating Council (hereinafter referred to in this section as the "Council") composed of the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Attorney General, the Chairman of the United States Civil Service Commission, the Chairman of the Equal Employment Opportunity Commission, and the Chairman of the Architectural and Transportation Barriers Compliance Board. The Council shall have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote

* Should read 502 (h)(1).

** Should read 502 (h)(1).

efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this title and the regulations prescribed thereunder. On or before July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section. Nothing in this section shall impair any responsibilities assigned by any Executive Order to any Federal department, agency, or instrumentality to act as a lead Federal agency with respect to any provisions of this title.

OTHER RELATED PROVISIONS

Rehabilitation Act of 1973 as amended through December 31, 1978 Section 101 (29 U.S.C. §721)

[Each State's annual plan for vocational rehabilitation services shall] [B] provide satisfactory assurances that facilities used in connection with the delivery of services assisted under the plan will comply with the . . . Architectural Barriers Act of 1968.

Rehabilitation Act of 1973 as amended through 1978 Section 306 (29 U.S.C. §776)

(b) To be approved, an application for assistance for a construction project, or for a project which involves construction [of public or non-profit rehabilitation facilities], must--

(4) be accompanied or supplemented by plans and specifications which have been approved by the Board established by Section 502 . . .

Public Works Employment Act of 1977 (Public Law 95-28), Section 103 (42 U.S.C. §6705 (g))

Accessibility standards for handicapped and elderly

(g) No grant shall be made under this chapter [local public works] for any project for which the applicant does not give assurances satisfactory to the Secretary [of Commerce, acting through the Economic Development Administration] that the project will be designed and constructed in accordance with the standards for accessibility for public buildings and facilities to the handicapped and elderly under the Act entitled "An Act to insure that certain public buildings financed with Federal funds are so

designed and constructed as to be accessible to the physically handicapped", approved August 12, 1968. The Architectural and Transportation Barriers Compliance Board established by the Rehabilitation Act of 1973 is authorized to insure that any construction and renovation done pursuant to any grant made under this chapter complies with the accessibility standards for public buildings and facilities issued under the Act of August 12, 1968.*

* Regulations at 13 C.F.R. §317.35 (k) and (i).

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